

# United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Milton I. Shadur	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	02 CR 511 -2	DATE	10/9/2002
CASE TITLE	USA vs. Marcel Grant		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

## MOTION:

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## DOCKET ENTRY:

- (1) ☐ Filed motion of [ use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due \_\_\_\_\_.
- (3) ☐ Answer brief to motion due \_\_\_\_\_. Reply to answer brief due \_\_\_\_\_.
- (4) ☐ Ruling/Hearing on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (7) ☐ Trial[set for/re-set for] on \_\_\_\_\_ at \_\_\_\_\_.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to \_\_\_\_\_ at \_\_\_\_\_.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]  
☐ FRCP4(m) ☐ Local Rule 41.1 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Enter Memorandum Order. Grant's motion to dismiss is denied. (52-1) At this point he remains scheduled to go to trial with certain of his codefendants on November 8, 2002.
- (11) ☒ [For further detail see order attached to the original minute order.]

<input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input checked="" type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate judge.	courtroom deputy's initials	Date/time received in central Clerk's Office	number of notices	Document Number  61
			date docketed	
			docketing deputy initials	
			10/9/2002	
			date mailed notice	
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Essentially the United States' argument in opposition to Grant's motion (much akin to one made in motions relating to plea agreements) partakes of the principles of the civil law of contracts. When the Assistant United States Attorney sent

<sup>1</sup> Although the original indictment did not have a separate gun charge under 18 U.S.C. §924(c)(1)(A), it did allege that Grant and what were then his two codefendants had "assaulted and put in jeopardy the lives of bank employees and customers by the use of a dangerous weapon, namely a firearm." But the addition to the superseding indictment has real teeth, for the separate gun count mandates the imposition of a consecutive sentence of at least 5 years (or when the firearm is brandished, as Count Three alleges, a consecutive sentence of at least 7 years).

Grant's attorney a June 13, 2002 letter as to Grant's possible tendering of a proffer, its penultimate paragraph read:

This letter embodies the entirety of the agreement to make a proffer. No other promise or agreement exists between you or this office regarding the proffer.

That being so, there is no occasion to hold an evidentiary hearing to see whether Grant can better flesh out the asserted governmental promise to see whether he can sustain his essential claim of a breach of contract. Grant's position is that he made his proffer in reliance on an understanding that his cooperation was being solicited "in exchange for the Government's recommendation for a reduced sentence"--and the June 13 letter expressly negates any such understanding. Nor has Grant advanced any contention that any promise was made at the later dates when he gave the proffer (June 13 and June 19)--promises that could arguably have superseded the express caveat quoted above from the government's June 13 letter.

Accordingly Grant's motion is denied. At this point he remains scheduled to go to trial with certain of his codefendants on November 8, 2002.



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Milton I. Shadur  
Senior United States District Judge

Date: October 9, 2002